

House Study Bill 111 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
ECONOMIC GROWTH BILL BY
CHAIRPERSON HANUSA)

A BILL FOR

1 An Act relating to rural water providers by making changes
2 to water service requirements and changes related to
3 compensation for the acquisition of certain facilities by a
4 city.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 357A.1, Code 2013, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 6A. "Rural water association" or
4 "association" means a rural water association organized and
5 incorporated as a cooperative association under chapter 499 or
6 as a nonprofit corporation under chapter 504.

7 Sec. 2. Section 357A.2, subsections 3 and 4, Code 2013, are
8 amended to read as follows:

9 3. a. Water services, other than water services provided as
10 of April 1, 1987, shall not be provided within two miles of the
11 limits of a city by a rural water district incorporated under
12 this chapter or chapter 504 except as provided in this section.

13 b. Water services, other than water services provided as
14 of July 1, 2013, shall not be provided within two miles of
15 the limits of a city by a rural water association, except as
16 otherwise provided for in this section.

17 4. a. A rural water district ~~incorporated under this~~
18 ~~chapter or chapter 504~~ may or rural water association shall
19 give notice of intent to provide water service to a new area
20 within two miles of a city or to replace or substantially
21 increase the capacity of existing facilities or infrastructure
22 within two miles of a city by submitting a water plan to the
23 city. If city water service is governed by a board of trustees
24 established under chapter 388, the water plan shall be filed
25 with the board of trustees.

26 b. The plan ~~is only required to~~ shall indicate the area
27 within two miles of the city which the rural water district or
28 rural water association intends to serve within four years of
29 the date the plan is filed.

30 c. The plan shall describe whether federal financing of the
31 rural water district or rural water association may directly or
32 indirectly create an exclusive right, franchise, or privilege.
33 The plan shall also describe whether such financing may limit,
34 curtail, or preempt rights or privileges of a city to serve
35 current or future customers. The plan shall further describe

1 whether the district or association facilities will provide
2 sufficient capacity for fire protection services to be provided
3 in the area within two miles of a city. The plan shall include
4 the number of customers that existing facilities are meant to
5 serve or, in the case of notification of intent to replace or
6 substantially increase capacity, the number of new customers to
7 be served by replaced or expanded facilities.

8 d. If the city fails to respond to ~~the rural water~~
9 ~~district's~~ such a plan within ninety days of receipt of the
10 plan, the rural water district or rural water association may
11 provide service in the area designated in the plan. The city
12 may inform the ~~rural water~~ district or association within
13 ninety days of receipt of the plan that the city requires
14 additional time or information to study the question of
15 providing water service outside the limits of the city. If
16 additional time or information is required, the city shall
17 respond to the ~~rural water district's~~ plan within one hundred
18 eighty days of receipt of the plan.

19 e. In responding to the plan, the city may waive its right
20 to provide water service within the areas designated for
21 service by the rural water district or rural water association,
22 or the city may reserve the right to provide water service in
23 some or all of the areas which the ~~rural water~~ district or
24 association intends to serve. If the city reserves the right
25 to provide water service within some or all of the areas which
26 the ~~rural water~~ district or association intends to serve, the
27 city shall provide service within four years of receipt of the
28 plan. The city may rescind a waiver after four years from the
29 date the plan is filed for any area in which the district or
30 association has not provided service.

31 f. This section does not preclude a city from providing
32 water service in an ~~area which is annexed by the city~~
33 accordance with section 357A.21.

34 Sec. 3. Section 357A.2, Code 2013, is amended by adding the
35 following new subsection:

1 NEW SUBSECTION. 5. A city shall compensate a rural
2 water district or rural water association for any existing
3 facilities displaced by the city's provision of water service
4 in accordance with section 357A.21.

5 Sec. 4. NEW SECTION. 357A.4A **Notice of intent to apply for**
6 **a federal loan — requirements.**

7 1. *a.* No later than ninety days prior to a rural water
8 district or rural water association filing an application for
9 a federal loan or a federal loan extension that directly or
10 indirectly creates an exclusive right, franchise, or privilege
11 or limits, curtails, or preempts rights or privileges of a
12 city to serve current or future water customers if the city
13 is within two miles of the proposed service area or estimated
14 growth area of the district or association, the district or
15 association shall send by certified mail a notice of intent to
16 apply for such a loan or loan extension to each such city.

17 *b.* The notice shall include the purpose of the loan or loan
18 extension, the amount of the requested loan or loan extension,
19 the estimated length of the loan or loan extension term, and
20 the estimated growth needs of the area that the rural water
21 district or rural water association intends to serve during
22 the estimated loan or loan extension term. A map of the
23 area shall be attached to the notice. The notice shall also
24 describe whether existing or future industrial, commercial,
25 or institutional water users within two miles of the proposed
26 service area or estimated growth area would be economically
27 and adequately served, as that phrase is defined in section
28 357A.16, by the district or association.

29 2. Any city within two miles of a proposed service area
30 or estimated growth area described in subsection 1 shall have
31 sixty days to respond to the rural water district or rural
32 water association and to state the city's intent to provide
33 service within four years to an area within the proposed
34 service area or estimated growth area. Any area to be served
35 by a city, as well as any current or future customers located

1 in that area, shall not be included in the district's or
2 association's proposed service area. A district or association
3 shall not use any area to be served by a city, pursuant to this
4 subsection, for any purpose related to a federal loan or loan
5 extension.

6 Sec. 5. Section 357A.16, Code 2013, is amended to read as
7 follows:

8 **357A.16 Detaching real property from a district or**
9 **association.**

10 1. If it becomes apparent that any real property included
11 within a rural water district or a rural water association
12 cannot economically or adequately be served by the facilities
13 of the district or association, the owners of the real property
14 may file with the auditor a petition to the supervisors
15 requesting that the real property be detached from the district
16 or association. The petition shall:

17 ~~1.~~ a. Describe by section, or fraction thereof, and by
18 township and range, the real property which it is proposed
19 to detach from the rural water district or rural water
20 association.

21 ~~2.~~ b. State that the real property cannot economically
22 or adequately be served by the facilities of the rural water
23 district or rural water association, and that it is not
24 feasible for the district or association to enlarge or extend
25 its facilities so as to economically and adequately serve the
26 real property.

27 ~~3.~~ c. Be signed by the owners of all the real property
28 which it is desired to detach from the rural water district or
29 rural water association.

30 2. For the purposes of this section and section 357A.4A,
31 "economically or adequately served" means that the facilities
32 of the rural water district or rural water association do not
33 create an impediment to economic development and includes
34 but is not limited to the district or association offering
35 reasonable water service rates to the owners of real property,

1 the sufficient provision of water and infrastructure for fire
2 protection and fire suppression, and the ability to provide any
3 reasonably anticipated future water service needs as specified
4 by the owners of the real property.

5 Sec. 6. Section 357A.21, Code 2013, is amended to read as
6 follows:

7 **357A.21 Annexation Condemnation of facilities and annexation**
8 **of land by a city — arbitration.**

9 1. A rural water district or rural water association, or
10 a water district organized under ~~this chapter~~, chapter 357,
11 499, ~~or~~ 504 shall be fairly compensated for losses resulting
12 from annexation distribution facilities acquired by a city.
13 Where such distribution facilities located within the corporate
14 limits of a city are acquired by the city through condemnation,
15 compensation shall be based upon the original cost of the
16 distribution facilities less depreciation, but shall not be
17 less than the remaining portion of the original debt for the
18 distribution facilities being acquired nor more than the
19 original cost of the distribution facilities. A city may
20 provide compensation to a district or association for a service
21 that was proposed or intended to be provided by the district or
22 association at the time of the acquisition.

23 2. ~~The~~ If a city annexes territory containing facilities
24 owned by a district or association, the governing body of a
25 the city or the city's water utility and the governing board
26 of ~~directors or trustees~~ of the water district or association
27 may agree to terms which provide that the facilities owned by
28 the water district or association and located within the city
29 shall be retained by the water district or association for the
30 purpose of transporting water to customers outside the city.
31 If an agreement is not reached within ninety days, the issues
32 may be submitted to arbitration. If submitted, an arbitrator
33 shall be selected by a committee which includes one member of
34 the governing body of the city or its designee, one member
35 of the water district's or association's governing board of

1 ~~directors or trustees~~ or its designee, and a disinterested
2 party selected by the other two members of the committee. A
3 list of qualified arbitrators may be obtained from the American
4 arbitration association or other recognized arbitration
5 organization or association.

6 EXPLANATION

7 This bill relates to rural water providers by making
8 changes to water service requirements and changes related to
9 compensation for certain facilities takings.

10 The bill defines "rural water association".

11 The bill places certain limitations on the provision of
12 water services by rural water associations to areas that are
13 within two miles of a city after July 1, 2013.

14 Current law provides that a rural water district may provide
15 notice of intent to provide water service to a new area within
16 two miles of a city. The bill requires that rural water
17 associations also provide such notice. The bill requires that
18 notice also be provided by a district or association intending
19 to replace or substantially increase the capacity of existing
20 facilities within two miles of a city. The bill further
21 requires that if a city's water service is governed by a board
22 of trustees that the notice shall be filed with the board.

23 Current law requires that a water plan submitted by a
24 rural water district only include an indication of the new
25 area that the district intends to serve. The bill requires
26 that a district or association indicate any such area that
27 the district or association intends to serve within four
28 years following the date that the plan is filed with a city.
29 Additionally, the plan is also required to provide information
30 relating to federal financing, fire protection service
31 capacity, and information related to the number of customers
32 served or intended to be served.

33 Current law provides that a city may waive its right to
34 provide water service within the areas designated in a water
35 plan. The bill provides that a city may rescind such a waiver

1 after four years following the date the water plan is filed
2 with the city, provided that the district or association has
3 not provided service to the area.

4 The bill requires that a rural water district or rural water
5 association provide a city within two miles of a proposed
6 service area or estimated growth area with notice of an
7 application for a federal loan or federal loan extension. The
8 district or association is required to provide such notice no
9 later than 90 days prior to filing such an application. The
10 notice is required to include specified information regarding
11 the loan or loan extension, loan term, and certain information
12 pertaining to the proposed service area or estimated growth
13 area. The bill provides that any city within two miles of
14 the proposed service area or estimated growth area shall have
15 60 days to respond to the notice and state the city's intent
16 to provide service within four years to an area within the
17 proposed service area or estimated growth area. The bill
18 requires that any area in which a city has stated an intent
19 to provide service shall not be included in the district's or
20 association's water plan or be used for any purposes related to
21 a federal loan or loan extension.

22 The bill provides a definition for the term "economically or
23 adequately served" related to the provision of water service
24 by a district or association.

25 Current law provides that a water district be compensated
26 for losses resulting from annexation. The bill strikes that
27 provision and provides that a district be compensated for
28 distribution facilities acquired by a city through condemnation
29 procedures and provides a formula for determining the amount
30 of compensation to be paid. The bill further provides that a
31 city may provide compensation to a district or association for
32 service that was proposed or intended to be provided by the
33 district or association at the time of acquisition.